



# PROPOSED RULE MAKING

## CR-102 (December 2017) (Implements RCW 34.05.320)

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FILED

DATE: February 15, 2018

TIME: 2:47 PM

WSR 18-05-059

**Agency:** Department of Social and Health Services, Economic Services Administration

**Original Notice**

**Supplemental Notice to WSR** \_\_\_\_\_

**Continuance of WSR** \_\_\_\_\_

**Preproposal Statement of Inquiry was filed as WSR 17-17-103 ; or**

**Expedited Rule Making--Proposed notice was filed as WSR \_\_\_\_\_ ; or**

**Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or**

**Proposal is exempt under RCW \_\_\_\_\_.**

**Title of rule and other identifying information:** (describe subject) The department is proposing to amend WAC 388-450-0162 "How does the department count my income to determine if my assistance unit is eligible and how does the department calculate the amount of my cash and basic food benefits?" and WAC 388-418-0005 "How will I know what changes to report?".

**Hearing location(s):**

Date:	Time:	Location: (be specific)	Comment:
March 27, 2018	10:00 a.m.	Office Building 2 DSHS Headquarters 1115 Washington Olympia, WA 98504	Public parking at 11 <sup>th</sup> and Jefferson. A map is available at: <a href="https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2">https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2</a>

**Date of intended adoption:** Not earlier than March 28, 2018 (Note: This is **NOT** the **effective** date)

**Submit written comments to:**

Name: DSHS Rules Coordinator

Address: PO Box 45850  
Olympia, WA 98504

Email: [DSHSRPAURulesCoordinator@dshs.wa.gov](mailto:DSHSRPAURulesCoordinator@dshs.wa.gov)

Fax: 360-664-6185

Other:

By (date) 5:00 p.m. March 27, 2018

**Assistance for persons with disabilities:**

Contact Jeff Kildahl, DSHS Rules Consultant

Phone: 360-664-6092

Fax: 360-664-6185

TTY: 711 Relay Service

Email: [Kildaja@dshs.wa.gov](mailto:Kildaja@dshs.wa.gov)

Other:

By (date) March 13, 2018

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The department is proposing to amend WAC 388-450-0162 and WAC 388-418-0005 to repeal means testing for income eligibility for child-only Temporary Assistance for Needy Families assistance units per the 2017-2019 operating budget and 2ESSB 5890 (Chapter 20, Laws of 2017) effective July 1, 2018.

**Reasons supporting proposal:** Current language in WAC 388-418-0005 "How will I know what changes to report" and WAC 388-450-0162 "How does the department count my income to determine if my assistance unit is eligible and how does the department calculate the amount of my cash and basic food benefits" reflects the use of means testing to determine income eligibility for child only Temporary Assistance for Needy Families assistance units. This language needs to be amended to reflect the repeal of means testing for income eligibility for child-only Temporary Assistance for Needy Families assistance units per the 2017-2019 operating budget and 2ESSB 5890 (Chapter 20, Laws of 2017).

**Statutory authority for adoption:** RCW 74.04.050, RCW 74.04.055, RCW 74.04.057, RCW 74.04.510, RCW 74.08.090, RCW 74.08A.010, RCW 74.08A.250.

**Statute being implemented:**

**Is rule necessary because of a:**

Federal Law?  Yes  No  
Federal Court Decision?  Yes  No  
State Court Decision?  Yes  No

If yes, CITATION:

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:** None

**Name of proponent:** (person or organization) Department of Social and health Services  Private  
 Public  
 Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Sarah Garcia	PO Box 45470, Olympia, WA 98504-5470	360-522-2214
Implementation:	Sarah Garcia	PO Box 45470, Olympia, WA 98504-5470	360-522-2214
Enforcement:	Sarah Garcia	PO Box 45470, Olympia, WA 98504-5470	360-522-2214

**Is a school district fiscal impact statement required under RCW 28A.305.135?**  Yes  No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:  
Address:  
Phone:  
Fax:  
TTY:  
Email:  
Other:

**Is a cost-benefit analysis required under RCW 34.05.328?**

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:  
Address:  
Phone:  
Fax:  
TTY:  
Email:  
Other:

No: Please explain: This amendment is exempt as allowed under RCW 34.05.328(5)(b)(vii) which states in part, "[t]his section does not apply to...rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

**Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:**

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- RCW 34.05.310 (4)(b) (Internal government operations)
- RCW 34.05.310 (4)(c) (Incorporation by reference)
- RCW 34.05.310 (4)(d) (Correct or clarify language)
- RCW 34.05.310 (4)(e) (Dictated by statute)
- RCW 34.05.310 (4)(f) (Set or adjust fees)
- RCW 34.05.310 (4)(g) ((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025.

Explanation of exemptions, if necessary: RCW 34.05.328 (5)(b)(vii)

**COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES**

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's analysis showing how costs were calculated. \_\_\_\_\_

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Other:

<b>Date:</b> February 13, 2018	<b>Signature:</b> 
<b>Name:</b> Katherine I. Vasquez	
<b>Title:</b> DSHS Rules Coordinator	

**WAC 388-418-0005 How will I know what changes to report? (1)**

You must report changes to the department based on the kinds of assistance you receive. We inform you of your reporting requirements on letters we send you about your benefits. Follow the steps below to determine the types of changes you must report:

(a) If you receive **cash** benefits, you need to tell us if:

(i) You move;

(ii) Someone moves out of your home;

(iii) Your total gross monthly income goes over the:

(A) Payment standard under WAC 388-478-0033 if you receive ABD cash; or

(B) Earned income limit under WAC 388-478-0035 and 388-450-0165 for all other programs;

(iv) You have liquid resources more than four thousand dollars; or

(v) You have a change in employment(~~(-)~~), you need to tell us if ((you)):

(A) You get a job or change employers;

(B) ~~((Change))~~ Your schedule changes from part-time to full-time or full-time to part-time;

(C) You have a change in your hourly wage rate or salary; or

(D) You stop working(~~(;-or)~~).

(b) If you are a relative or nonrelative caregiver and receive cash benefits on behalf of a child in your care but not for yourself or other adults in your household, you need to tell us if:

(i) You move;

(ii) The child you are caring for moves out of the home;

(iii) Anyone related to ~~((you or to))~~ the child you are caring for moves into or out of the home;

(iv) ~~((There is a change in the earned or unearned income of anyone in your child only means testing assistance unit, as defined in WAC 388-450-0162 (3)(b). You do not need to report changes in earned income for your dependent children who are in school full-time (see WAC 388-450-0070).~~

~~(v))~~ There is a change in the recipient child's earned or unearned income ~~((see))~~ unless they are in school full-time as described in WAC 388-450-0070 ~~((for how we count the earned income of a child))~~);

~~((vi))~~ (v) The recipient child has liquid resources more than four thousand dollars;

~~((vii))~~ (vi) A recipient child in the home becomes a foster child; or

~~((viii))~~ (vii) You legally adopt the recipient child.

(2) If you do not receive cash assistance but you do receive benefits from basic food, you must report changes for the people in your assistance unit under chapter 388-408 WAC, and tell us if:

(a) Your total monthly income is more than the maximum gross monthly income as described in WAC 388-478-0060; or

(b) Anyone who receives food benefits in your assistance unit and who must meet work requirements under WAC 388-444-0030 has their hours at work go below twenty hours per week.

**WAC 388-450-0162** How does the department count my income to determine if my assistance unit is eligible and how does the department calculate the amount of my cash and basic food benefits? (1) Countable income is all income your assistance unit (AU) (~~or your child only means testing AU~~) has after we subtract the following:

- (a) Excluded or disregarded income under WAC 388-450-0015;
- (b) For **cash assistance**, earned income incentives and deductions allowed for specific programs under WAC 388-450-0170, 388-450-0177, and 388-450-0178;
- (c) (~~For child only means testing AUs only, the department will disregard fifty percent of all countable unearned income, in addition to the deductions in WAC 388-450-0170;~~)
- (~~d~~)) For **basic food**, deductions allowed under WAC 388-450-0185; and

(~~e~~)) (d) Income we allocate to someone outside of the assistance unit under WAC 388-450-0095 through 388-450-0160.

(2) Countable income includes all income that we must deem or allocate from financially responsible persons who are not members of your AU under WAC 388-450-0095 through 388-450-0160.

(~~3~~) Starting November 1, 2011, we may apply child only means testing to determine eligibility and your payment standard amount.)

(a) (~~Child only means testing applies when you are a nonparental relative or unrelated caregiver applying for or receiving a nonneedy TANF/SFA grant for a child or children only, unless at least one child was placed by a state or tribal child welfare agency and it is an open child welfare case.~~)

(b) (~~For the purposes of child only means testing only, we include yourself, your spouse, your dependents, and other persons who are financially responsible for yourself or the child as defined in WAC 388-450-0100 in your assistance unit (AU). We call this your child only means testing AU.~~)

(c) (~~As shown in the chart below, we compare your child only means testing AU's total countable income to the current federal poverty level (FPL) for your household size to determine your child only means testing payment standard. Your child only means tested payment standard is a percentage of the payment standards in WAC 388-478-0020.~~)

If your countable child-only means-testing AU income is:	Your child-only means-tested payment standard is equal to the following percentage of the payment standards in WAC 388-478-0020:
200% FPL or less	100%
Between 201% and 225% of FPL	80%
Between 226% and 250% of FPL	60%
Between 251% and 275% of FPL	40%
Between 276% and 300% of FPL	20%
Over 300% of the FPL	The children in your care are not eligible for a TANF/SFA grant.

~~(d)~~) If the children in your care qualify for a TANF/SFA grant (~~once the child-only means test is applied~~), the child's income is budgeted against the child-only (~~means-tested~~) payment standard amount.

~~((e))~~) (b) If the children in your care do not qualify for a TANF/SFA grant, they may still qualify for medical assistance (~~For Washington apple health coverage (medical assistance), go to Washington healthplanfinder to apply or see~~) under WAC 182-505-0210 (~~for information regarding eligibility for children for Washington apple health~~).

~~((4))~~) (3) For **cash assistance**:

(a) We compare your countable income to the payment standard in WAC 388-478-0020 and 388-478-0033 (~~or, for child-only means tested cases,~~) to the payment standard amount in subsection (3) of this section.

(b) You are not eligible for benefits when your AU's countable income is equal to or greater than the payment standard plus any authorized additional requirements.

(c) Your benefit level is the payment standard and authorized additional requirements minus your AU's countable income.

~~((5))~~) (4) For **basic food**, if you meet all other eligibility requirements for the program under WAC 388-400-0040, we determine if you meet the income requirements for benefits and calculate your AU's monthly benefits as specified under Title 7 Part 273 of code of federal regulations for the supplemental nutrition assistance program (SNAP). The process is described in brief below:

(a) How we determine if your AU is income eligible for basic food:

(i) We compare your AU's total monthly income to the gross monthly income standard under WAC 388-478-0060. We don't use income that isn't counted under WAC 388-450-0015 as a part of your gross monthly income.

(ii) We then compare your AU's countable monthly income to the net income standard under WAC 388-478-0060.

(A) If your AU is categorically eligible for basic food under WAC 388-414-0001, your AU can have income over the gross or net income standard and still be eligible for benefits.

(B) If your AU includes a person who is sixty years of age or older or has a disability, your AU can have income over the gross income standard, but must have income under the net income standard to be eligible for benefits.

(C) **All other AUs** must have income at or below the gross and net income standards as required under WAC 388-478-0060 to be eligible for basic food.

(b) How we calculate your AU's monthly basic food benefits:

(i) We start with the maximum allotment for your AU under WAC 388-478-0060.

(ii) We then subtract thirty percent of your AU's countable income from the maximum allotment and round the benefit down to the next whole dollar to determine your monthly benefit.

(iii) If your AU is eligible for benefits and has one or two persons, your AU will receive at least the minimum allotment as described under WAC 388-412-0015, even if the monthly benefit we calculate is lower than the minimum allotment.